

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 2:18-cr-00262

EUGENE CALVIN WELLS
MIRANDA BRANDON
SHERRY GRAY

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant Eugene Calvin Well's motion to continue the trial and all case related actions for a period of approximately fourteen (14) days. (ECF No. 42). In support of his motion and the need for a continuance, counsel for defendant states that further review and research is necessary to enable the defendant to make informed decisions concerning possible pre-trial motions, defenses, mitigation, and the trial in this matter. The two other defendants in this matter and the government do not oppose a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the best interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** the defendant's motion to continue. In deciding to grant the motion to continue, the court considered the factors outlined in 18 U.S.C. §3161(h)(7)(B) and found that the nature of the prosecution makes it unreasonable to expect adequate

preparation for pretrial proceedings or for the trial itself within the time limits established by the Speedy Trial Act. The court further finds that failure to grant a continuance would deny counsel the reasonable time necessary for effective preparation, taking into account the exercise of due diligence.

Accordingly, the court hereby **ORDERS** as follows:

- I. Trial of this action is continued until 9:30 a.m. on April 10, 2019, in Charleston. Jury instructions and proposed voir dire are to be filed by April 3, 2019;
- II. All pretrial motions are to be filed by March 27, 2019;
- III. A pretrial motions hearing before the undersigned is scheduled for 1:30 p.m. on April 3, 2019, in Charleston;
- IV. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 12th day of March, 2019.

ENTER:



David A. Faber
Senior United States District Judge